
Rules of
Public Defender Commission
Division 10—Office of State Public Defender
Chapter 3—Guidelines for the
Determination of Indigency

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Title 18—PUBLIC DEFENDER COMMISSION

Division 10—Office of State Public Defender

Chapter 3—Guidelines for the Determination of Indigency

18 CSR 10-3.010 Guidelines for the Determination of Indigency

PURPOSE: This rule establishes the guidelines for the determination of indigency and prescribes a form for that purpose.

(1) Public Assistance, Unemployment Compensation and Income Maintenance Payments.

(A) Unemployed defendants receiving public assistance are eligible for defense services provided by the Office of State Public Defender regardless of the amount of the benefits. If the defendant is receiving public assistance and has a part-time job, or other assets, the weekly amount of benefits and the additional source of income should be added together and compared to the maximum Qualifying Income Scale to Determine Indigency.

(B) If a defendant is receiving disability payments, pension, unemployment compensation or Social Security, this is considered income and the amount of the payment must be considered.

(2) Maximum Qualifying Income Scale.

(A) A defendant may be considered indigent if his/her gross pay and other sources of income do not exceed the federal poverty guideline as issued in the *Federal Register* by the U.S. Department of Health and Human Services.

(B) When making the financial determination, the following factors should be taken into consideration:

1. Debts—Debts should be taken into consideration to the extent that payments reduce the take-home pay of the defendant. Debts caused by hospital bills, taxes, fines, child support and alimony are allowable only if actual payments on debts are being made;

2. Bond—If the defendant has been released on bail on any case in the amount of five thousand dollars (\$5,000) or more, a presumption is created that the defendant is not indigent and the ability of the defendant to meet the bail must be given consideration;

3. Spouse's Income—The spouse's income should be considered if the spouse is employed and supports the defendant. The income shall also be considered if they share the household expenses;

4. Parent's Income—The parent's income should be considered if they support the defendant and the defendant is under eighteen (18) years of age. Defendants eighteen (18) years or older shall be considered independent from family income unless they are full-time students or are dependent upon their parents or when the parents or a relative post bond;

5. Mortgage—If the defendant owns or is buying a home, the defendant's equity must be determined. If defendant's equity exceeds ten thousand dollars (\$10,000), the defendant would not qualify for a public defender; and

6. Assets—Unless the defendant is charged with a Class A felony, cash in excess of one thousand dollars (\$1,000) creates a presumption of non-indigency. Bank accounts, stocks, bonds, jewelry, equity in insurance and any other financial assets must be considered. All vehicles are assets and must also be considered. If the total value of the asset(s) is more than two thousand dollars (\$2,000), the defendant is presumed not to be indigent.

(3) Discretionary Aspects of Determining Indigency.

(A) The previously mentioned financial criteria are to be applied in all cases and considered with the probable expense and burden of defending the case. If a person is determined to be eligible for the services provided by the State Public Defender System and if, at the time such determination is made, s/he is able to provide a limited cash contribution toward the cost of representation without imposing a substantial hardship upon himself or his dependents, such contribution shall be required as a condition of his/her representation by the State Public Defender System. If at any time, either during or after the disposition of his/her case, such defendant becomes financially able to meet all or some part of the cost of services rendered to him/her, he shall be required to reimburse the commission in such amounts as s/he can reasonably pay, either by a single payment or by installments of reasonable amounts, in accordance with a schedule of charges for public defender services prepared by the commission;

(B) If a defendant is found not indigent and not eligible for a public defender, s/he has the right to appeal that decision to the court; and

(C) An individual requesting public defender service shall complete and sign an Application for Public Defender Services.

AUTHORITY: sections 600.017(10), 600.086 and 600.090, RSMo 2000. Original rule*

filed Nov. 12, 1985, effective Feb. 13, 1986. Amended: Filed Feb. 14, 2002, effective Aug. 30, 2002.

**Original authority: 600.017, RSMo 1982; 600.086, RSMo 1976, amended 1982, 1993 and 600.090, RSMo 1976, amended 1982, 1986.*